

Mississippi House of Representatives

COMMITTEE ASSIGNMENTS:

Judiciary A - Chairman
Judiciary En Banc - Chairman
Appropriations
Banking and Financial Services
Investigate State Offices
Transportation



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REPRESENTATIVE MARK BAKER

District 74
Rankin County

January 14, 2019

Mr. Swathi Shanmugasundaram via email: 67132-25733351@requests.muckrock.com
Muckrock.com

RE: Public Records Request

Dear Mr. Shanmugasundaram:

I have received your public records request dated January 10, 2019, in which you request all "emails and other records of correspondence (including meeting notes, faxes, letters and memos)" sent to or received from me, my staff and a list of organizations named in your letter.

The requested information is not subject to the Public Records Act of 1983, and is protected from disclosure.

The factors that determine whether any records are subject to the Public Records Act are whether the records are a "public record" of a "public body". By definition under the Public Records Act, an appointed or elected public official or an individual employed by a public body is not to be construed as a "public body". *See*, MCA Section 25-61-3(a). Thus, any emails and other records of correspondence between myself, my staff and others that are not maintained or kept on behalf of the House of Representatives are not subject to the Public Records Act. Furthermore, MCA Section 25-61-17, provides that "[n]othing in this chapter shall be construed as denying the Legislature the right to determine the rules of its own proceedings and to regulate public access to its records." As of the response date of this letter, the House of Representatives has not adopted a policy to keep or maintain any written or electronic correspondence of individual members of the House of Representatives.

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Moreover, the doctrine of legislative immunity has been recognized in common law for hundreds of years with origins in England, and also been to applied to state legislators by the United States Supreme Court in *Tenney v. Brandhove*, 341 U.S. 367 (1951). To protect the other 121 House members with whom I serve from an expectation that such information should be made public upon request, to protect each constituent and every citizen of the State of Mississippi who should be able to expect a private communication with his or her legislator about policy, and to protect the necessary confidentiality of communications with my employees or any other individuals regarding the development of legislative policy, I cannot disclose the information that you have requested. Legislative immunity is analogous with reporters' privilege which serves to protect persons who correspond with the media. To break from the practice of legislative immunity, similar to a reporter disclosing a confidential source, would result in a chilling effect on the legislative process.

Thank you in advance for understanding the necessity for prudence in this matter for the long-term best interests of the legislative institution of our great state.

Sincerely,



Mark Baker